IN THE HIGH COURT OF JUDICATURE FOR RJASTHAN

AT BENCH JAIPUR

J U D G M E N T

SB Civil Misc. Appeal No. 1258/05

10.1.2007

Hon'ble Mr. Justice KS Rathore

Smt. Manish Sharma, for the appellant.

This misc. appeal is directed against the order dated 1.2.2005 passed by the learned District Judge, Ajmer.

The applicant (appellant herein) is daughter of Kumari Jagdish resident of 22/55, Niranjan Dham, Usari Gate, Ajmer who expired on 5.4.2000.

The impugned order is challenged on the ground that the trial court has seriously erred in rejecting the application under section 278 of the Indian Succession Act, holding that in view of Section 11(ii) of the Hindu Adoption and Maintenance Act, 1956, the adoption of the applicant is void, therefore the applicant is

not entitled to Letter of Administration and rejected the application.

Learned counsel for the appellant submits that this order is passed without considering the fact that the dispute relates to Letter of Administration regarding property left by Kumari Jagdish and her disciple Kumari Parwati Jagdish as Kumari Jagdish being an Abbot Head of Monastery have two disciples and she used to treat them as her daughters and it was general practice of Niranjan Dham to treat the disciples as daughters and in the present case after the death of Kumari Jagdish, Kumari Parwati Jagdish has become an Abbot Head of Monastery and after her death, therefore, the applicant being the sole disciple is entitled for the succession.

Having perused the order impugned it appears that the civil court has not properly considered the relevant provision of law and factual aspect of the case and has rejected the application under section 278 of the Indian

Succession Act and as such, in the interest of justice, I hereby quash and set aside the order impugned dated 1.2.2005 and remit the matter back to the civil court for fresh adjudication after considering all the aspects and the relevant provisions of law and shall pass fresh order on merit on the application under section 278 of the Indian Succession Act, 1925 along with the amendment application dated 31.3.2004.

With these observations, the misc. appeal stands disposed of. The record be sent back.

(KS RATHROE), J.